

## **Exhibit D**

(Letters from Jon L. Heberling to Janet S. Baer and  
Richard E. Gillespie dated December 19, 2003)

Law Offices of  
*McGarvey, Heberling, Sullivan & McGarvey, P.C.*

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December 19, 2003

**COPY**

Janet S. Baer  
Kirkland & Ellis  
W.R. Grace Counsel  
200 East Randolph Drive  
Chicago IL 60601

Re: Rodney Erickson

Dear Janet:

Please refer to the letter of Laurie Wallace dated 11/10/03, notifying of the deposition to perpetuate testimony. The testimony included an exposure history and current health information. Counsel Dana Christensen for the State of Montana and Randy Cox for the Burlington Northern Railroad appeared and examined the witness. These are co-defendants with your client, and had parallel interests to your client in developing the exposure history. Enclosed is a copy of the deposition dated 12/1/03. If you wish to take an additional deposition to further examine, we will not object to that. If you wish to do so, we suggest you take the deposition at your earliest convenience, because our client is in poor health.

Yours sincerely,

McGARVEY, HEBERLING, SULLIVAN  
& McGARVEY

*Jon L. Heberling*  
JON L. HEBERLING

JLH:joh

Enc.

cc:  Dan Cohn

Laurie Wallace

Law Offices of  
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Richard E. Gillespie  
Keller, Reynolds, Drake et al  
P.O. Box 598  
Helena MT 59624-0598

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Enclosed is a copy of the complaint, which includes claims against Maryland Casualty.

Yours sincerely,

McGARVEY, HEBERLING, SULLIVAN  
& McGARVEY

*Jon L. Heberling*  
JON L. HEBERLING

JLH:joh

Enclosures

cc:  Dan Cohn

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W.R. Grace Counsel  
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Re: Louie O'Brien

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